



NEIFELD DOCUMENT NO: PIP-81-TRAUU-US

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF: TRAUTH et al.

CONF. NO: 5918

GROUP ART UNIT: 3623

SERIAL NO: 09/998,941

FILED: November 15, 2001

EXAMINER: Irshadullah, M

FOR: Customer Complaint Alert System and Method

ASSISTANT COMMISSIONER FOR PATENTS

ALEXANDRIA, VA 22213-1450

37 CFR 41.37 REPLY APPEAL BRIEF

Sir:

In response to the office action mailed April 27, 2005, which was in response to the first 37 CFR § 41.37 Appeal Brief filed on December 17, 2004, the applicant requests that the appeal be reinstated and files this brief in response to the rejections.



Table of Contents

I.	37 CFR 41.37 (a)(1) and (2)	<u>-1-</u>
II.	37 CFR 41.37 (b)	<u>-1-</u>
III.	37 CFR 41.37 (c)(1)	<u>-1-</u>
A.	37 CFR 41.37 (c)(1)(i) Real Party in Interest	<u>-1-</u>
B.	37 CFR 41.37 (c)(1)(ii) Related Appeals and Interferences	<u>-1-</u>
C.	37 CFR 41.37 (c)(1)(iii) Status of Claims	<u>-1-</u>
D.	37 CFR 41.37 (c)(1)(iv) Status of Amendments	<u>-1-</u>
E.	37 CFR 41.37 (c)(1)(v) Summary of the Claimed Subject Matter	<u>-1-</u>
F.	37 CFR 41.37 (c)(1)(vi) Grounds of Rejection to be Reviewed on Appeal .	<u>-4-</u>
G.	37 CFR 41.37 (c)(1)(vii) Argument	<u>-4-</u>
1.	Summary of Argument	<u>-4-</u>
2.	What Boulton Teaches	<u>-6-</u>
3.	What Boulton Does Not Teach	<u>-7-</u>
4.	What Herz Teaches	<u>-7-</u>
5.	What Herz Does Not Teach	<u>-8-</u>
6.	Conclusions Applicable to Claim 1 (And Also to All other Independent Claims, Claims 15, 17, 20, 22, 28, and 33)	<u>-8-</u>
7.	Response to the examiner's assertions regarding claim 1's "receiving from a customer a customer feedback message in an electronic format"	<u>-9-</u>
8.	Response to the examiner's assertions that Boulton teaches "automatically storing said feedback message in a database" and lack of automated transmission to anyone	<u>-10-</u>
9.	Response to the examiner's admission that Boulton fails to disclose automatically creating and transmitting an electronic notification message to a first employee of an employer, said electronic notification message proving an indication that a feedback message exists ...	<u>-12-</u>
10.	The Examiner's Assertions Regarding Herz	<u>-12-</u>
11.	Response to the Examiner's Assertions That Herz Discloses Automatically Creating and Transmitting an Electronic Notification Message to A First Employee of an Employer - (1) Herz's claim 5; and (2) Herz's page 14 paragraph 0168 lines 3-4	<u>-12-</u>
12.	Response to the Examiner's Assertions that Herz Provides Motivation to Modify Boulton - (3) Herz's page 8 paragraph 96 lines 1-4; and (4) Herz's paragraph 99 line 12	<u>-15-</u>
13.	Claims 3 and 24 - including a customer satisfaction rating	<u>-17-</u>
14.	Claims 4 and 25 - Electronic notifications that a feedback message exists which includes customer satisfaction	<u>-18-</u>
15.	Claim 7 - automatically creating and transmitting an electronic	

	notification message comprising an audio file providing an indication that a feedback message exists	<u>-18-</u>
16.	Claim 8 - Creating an electronic notification message and transmitting said electronic notification message of an audio file with feedback message	<u>-19-</u>
17.	Claim 10 - creating and transmitting an electronic notification message indicating that a certain feedback message has been received	<u>-20-</u>
18.	Claim 11 - Transmitting an electronic notification message indicating the existence of a certain feedback message with response ID ...	<u>-20-</u>
19.	Claim 17 - creating and transmitting said electronic notification with feedback message response	<u>-20-</u>
20.	Claim 20 - storing an audio feedback message, notification including and audio file, and prompt transmission to the employee	<u>-20-</u>
21.	Claim 22 - promptly transmitting, and displaying the feedback message in a web browser	<u>-20-</u>
22.	Claim 27 - "providing a link on said web page enabling said employee to playback said audio file"	<u>-21-</u>
23.	Claim 28 "A system for receiving and tracking customer complaints... a complaint record... to retrieve said complaint record"	<u>-21-</u>
24.	Claim 30 - Audio file again	<u>-22-</u>
H.	37 CFR 41.37 (c)(1)(viii) Claims Appendix	<u>-22-</u>
I.	37 CFR 41.37 (c)(1)(ix) Evidence Appendix	<u>-22-</u>
J.	37 CFR 41.37 (c)(1)(x) Related proceedings appendix	<u>-22-</u>
IV.	37 CFR 41.37 (c)(2)	<u>-22-</u>
V.	37 CFR 41.37 (d)	<u>-22-</u>
VI.	37 CFR 41.37 (e)	<u>-22-</u>



I. **37 CFR 41.37 (a)(1) and (2)**

This brief is filed with a second Notice of Appeal under Section 41.31. Since all fees for the appeal have previously been paid, no fees are due, and therefore no fee accompanies this brief.

II. **37 CFR 41.37 (b)**

The filing is timely. Accordingly, this subsection is not relevant.

III. **37 CFR 41.37 (c)(1)**

A. **37 CFR 41.37 (c)(1)(i) Real Party in Interest**

The real party in interest is Catalina Marketing International, Inc., a Delaware corporation, which is wholly owned by Catalina Marketing Corporation, a Delaware corporation.

B. **37 CFR 41.37 (c)(1)(ii) Related Appeals and Interferences**

There are no related appeals and interferences. Accordingly, this subsection is not relevant.

C. **37 CFR 41.37 (c)(1)(iii) Status of Claims**

Claims 1-33 are pending, rejected, and under appeal.

D. **37 CFR 41.37 (c)(1)(iv) Status of Amendments**

All amendments are entered.

E. **37 CFR 41.37 (c)(1)(v) Summary of the Claimed Subject Matter**

The claim defines systems and methods of real-time notification to company employees of customer complaints, to allow customer to provide verbal feedback in response to customer survey questions and to make the existence of this verbal feedback immediately identified to company employees, and to allow company employees to easily track the occurrence and resolution of customer complaints through a web-based system.

Claim 1 defines an electronic network implemented method for notifying personnel of customer feedback messages (page 1 lines 10-12), comprising: receiving from a customer a customer feedback message in an electronic format (page 3 lines 9-11); automatically storing said feedback message from said customer in a database in response to receipt of said customer feedback message in said electronic format (page 3 lines 20-21); and automatically creating and transmitting an electronic notification message to a first employee of an employer, said

electronic notification message providing an indication that a feedback message exists, said automatically creating and transmitting occurring in response to at least one of said receiving and said automatically storing (page 3 lines 11-14; page 5 lines 19-20).

Claim 8 defines an electronic network implemented method for notifying personnel of customer feedback messages (page 1 lines 10-12), comprising: receiving a spoken customer feedback message from a customer (page 3 lines 15-19); creating an audio file containing a recording of said spoken customer feedback message (page 6 lines 18-20); storing said audio file in a database (page 3 lines 20-21); generating an electronic notification message, said electronic notification message indicating that a certain feedback message has been received (page 3 lines 9-14; page 5 lines 19-20); transmitting said electronic notification message to an employee of an employer (page 6 lines 18-20); and accessing said database and playing said audio file containing a recording of said spoken feedback message stored in said database to said employee, upon receiving a command from said employee (page 6 lines 18-20).

Claim 15 defines an electronic network implemented method for notifying personnel of customer messages (page 1 lines 10-12), comprising: receiving a satisfaction rating from a customer; receiving a spoken message from said customer (Figure 3; page 8 lines 8-11); creating an audio file containing a recording of said spoken message (page 6 lines 18-20); storing said audio file in a database (page 3 lines 20-21); generating an electronic notification message, said electronic notification message indicating at least the existence of a satisfaction rating of a customer, said generating occurring automatically at least in part in response the receipt and storage of at least one of said satisfaction rating and said spoken message (page 3 lines 9-14; page 5 lines 19-20); attaching said audio file to said notification message (page 3 lines 18-19); automatically transmitting said electronic notification message to an employee of an employer, said automatically transmitting occurring at least in part in response to said generating (page 6 lines 18-20); determining whether said satisfaction rating is below a threshold value (page 9 lines 7-9); and transmitting a second electronic notification message to a second employee of said employer if said satisfaction rating is below said threshold value, said second electronic notification message indicating at least the existence of a satisfaction rating of a customer (Figure 4; page 8 line 17; page 10 lines 21-23; page 15 lines 13-20).

Claim 17 defines a customer feedback notification electronic system, comprising: a database for storing a customer feedback message of a customer (page 3 lines 20-21); an electronic notification message, said electronic notification message indicating that a customer feedback message has been received (page 3 lines 9-11); and a computer server for promptly transmitting said electronic notification message to an employee of an employer upon receipt of said customer feedback message (Figure 1; page 7 line 21 to page 8 line 1).

Claim 20 defines a customer feedback notification electronic system, comprising: a voice server for receiving a spoken customer feedback message (Figure 1; page 7 lines 8-15); a database for storing said feedback message in an audio file (page 3 lines 20-21); an electronic notification message indicating that said feedback message has been received, said electronic notification message including said audio file (page 11 lines 14-16); and a computer server for promptly transmitting said notification message to an employee in response to receipt of said customer feedback message (Figure 1; page 7 line 21 to page 8 line 1).

Claim 22 defines an electronic network implemented method for receiving and tracking customer feedback messages, comprising: receiving a customer feedback message of a customer (page 3 lines 15-19); storing said customer feedback message in a database (page 3 lines 20-21); creating an electronic notification message indicating that a customer feedback message has been received from an individual customer (page 3 lines 11-14; page 5 lines 19-20); promptly transmitting said notification message to an employee of an employer upon receipt of said customer feedback message (page 6 lines 18-20); accessing said database using a web server to retrieve said customer feedback message to a web browser (page 12 lines 20-22); and displaying to said employee said customer feedback message within a web page displayed by said web browser (page 12 line 22 to page 13 line 3).

Claim 28 defines a system for receiving and tracking customer complaints, comprising: a voice server for receiving a customer complaint (Figure 1; page 7 lines 8-15); a database for storing said complaint in a complaint record (page 3 lines 20-21); a message server for serving an electronic notification message indicating that a complaint has been received, said message server configured to automatically serve said electronic notification message to an employee of an employer promptly upon receipt of said customer complaint (Figure 1; page 7 line 21 to page

8 line 1); a web server connected with said database, said web server configured to enable said employee to access said database to retrieve said complaint record (Figure 1; page 12 lines 20-22).

Claim 33 defines a computer program product comprising a computer readable media storing code for enabling an electronic network to implement a method for notifying personnel of customer feedback messages, said method comprising: receiving from a customer a customer feedback message in an electronic format (page 3 lines 9-11); automatically storing said feedback message from said customer in a database in response to receipt of said customer feedback message in said electronic format (page 3 lines 20-21); and automatically creating and transmitting an electronic notification message to a first employee of an employer, said electronic notification message providing an indication that a feedback message exists, said automatically creating and transmitting occurring in response to at least one of said receiving and said automatically storing (page 3 lines 11-14; page 5 lines 19-20).

F. 37 CFR 41.37 (c)(1)(vi) Grounds of Rejection to be Reviewed on Appeal

The applicant requests review of all grounds for rejection in the new office action mailed April 27, 2005. These grounds are whether the rejections of claims 1-4, 7-11, 14, 15-18, 20-25, and 27-33 under 35 USC 103 based upon Boulton et. al. (USP 5,537,618) (hereinafter Boulton) in view of Herz et. al. (PGP 2001/0014868 A1) (hereinafter Herz) should be reversed

The office action mailed April 27, 2005 indicated that dependent claims 5, 6, 12, 13, 19, and 26 were allowable over the prior art. The appellant does not therefore request review of dependent claims 5, 6, 12, 13, 19, and 26.

All grounds for rejection identified the original appeal brief, which were the rejections of each one of claims 1-33 under 35 USC 102(e) as being anticipated by Rebane were, "fully considered" by the examiner and reversed by the examiner, thereby admitting the impropriety of those rejections. Those grounds are not under review.

G. 37 CFR 41.37 (c)(1)(vii) Argument

1. Summary of Argument

The present invention relates to an electronic system and method for notifying companies and retailers of customer complaints or dissatisfaction responses to survey questions and

monitoring the resolution of these responses. For example, claim 1 recites:

An electronic network implemented method for notifying personnel of customer feedback messages, comprising:

receiving from a customer a customer feedback message in an electronic format;

automatically storing said feedback message from said customer in a database in response to receipt of said customer feedback message in said electronic format;

and

automatically creating and transmitting an electronic notification message to a first employee of an employer, said electronic notification message providing an indication that a feedback message exists, said automatically creating and transmitting occurring in response to at least one of said receiving and said automatically storing.

Neither Boulton nor Boulton in view of Herz, either discloses or suggests the last step of claim 1, that is, automatically creating the notification of the existence of a feedback message and transmitting the notification to an employee. Boulton teaches a method to record in a database user feedback regarding usability of software programs. It does not teach automatically notifying someone of feedback. In fact, the examiner admits that Boulton fails to disclose the limitations defined by claim 1's recitation: "automatically creating and transmitting an electronic notification message to a first employee of an employer, said electronic notification message providing an indication that a feedback message exists, said automatically creating and transmitting occurring in response to at least one of said receiving and said automatically storing."

Herz discloses a system for automatic determination of customized prices and promotions for shoppers. Herz's system receives input from the shopper user and transmits back to the same shopper other information. Herz automatically constructs product offers tailored to the shopper

in a way that attempts to maximize the vendor's profits. Herz does not disclose or suggest sending a notification of the existence of a feedback message to anyone, and Herz does not disclose sending information to two different parties, such as a customer and an employee, as defined by claim 1. Thus, Herz fails to suggest modifying Boulton to include the limitations of claim 1 of sending an automatic feedback message directed to an employee in response to receipt of feedback from a customer.

Moreover, Herz is not logically combinable with Boulton.

2. What Boulton Teaches

Boulton is directed to a system for facilitating learning by enabling users of software to provide feedback on the software, particularly educational software. See the abstract and the summary of the invention section columns 3 line 55 to column 4 line 34. Specifically, Boulton addresses the need for a system that "minimizes the effort and time required of individual users to enter feedback and provides motivation for the users to supply the feedback". See the problem noted in the background section of Boulton at column 4 lines 43-45.

More specifically, Boulton discloses:

A method and apparatus for implementing user feedback. A user may activate and enter feedback mode command in a computer environment to provide feedback in a feedback interface. **A feedback record is created** and the user's context within a product, process, service, or issue to which the feedback refers **is recorded in the feedback record**. Attribute icons that the user may select to identify the nature of the feedback are displayed in the feedback interface. Selected attributes, the time at which the feedback is made, the physical location and identity of the user, and comments by the user are **recorded in the feedback record**. A feedback visualizer for a reviewer for organizing and presenting user feedback receives feedback from users, the feedback being were collected and stored in a database. The visualizer identifies a reviewer's visualization preferences, which include indications of feedback attributes that the reviewer desires to review. **Collected feedback records are then filtered in accordance with the visualization preferences to create a combined set of records that include the records having the**

preferred attributes. The visualizer graphically displays an indication of the number of records in the combined set. A reviewer can change his visualization preferences, *and the feedback records are refiltered and displayed in accordance with the changed preferences.* The reviewer can also select a specific feedback record to display message content stored in the record and respond to the feedback. [Abstract.]

Boulton's disclosed reviewer functionality of enabling filtering of multiple records makes it clear that Boulton discloses that the reviewer determines when to review a plurality of previously recorded feedback records.

Boulton's method is also limited to a "user [that] is using a software program on a first computer system" and where the feedback includes "a context or location of the user within a product, process, or service" relating to the use of the software. Column 5 lines 5-10.

The obvious goal of Boulton is to enable a user to describe a problem when encountered, whether while using a computerized academic course or a piece of business software, and having Boulton's software automatically capture the corresponding location, step, or context in the user's software at the time the user identifies said problem.

3. What Boulton Does Not Teach

Boulton does not teach or suggest automatically creating a notification that a customer feedback exists and transmitting said notification to an employee. In fact, the examiner admits on the record that Boulton does not disclose this limitation of claim 1. Office action mailed April 27, 2005 page 4. However, the examiner wrongly relied on Herz for disclosing this feature and motivating its inclusion in Boulton's system and method. In fact, Herz provides neither.

4. What Herz Teaches

Herz is directed to "providing automatic determination of customized prices and promotions automatically constructs product offers tailored to individual shoppers." See its title and abstract.

Herz discloses a system where a customer inputs product selections data, and the Herz system determines, from the customer's previously input/stored selection data and other information, what purchase incentives to offer to the customer. The Herz system then sends

those incentives to the customer. Herz does not disclose or suggest automated transmitting in response to customer input data of anything to anyone other than the customer.

5. What Herz Does Not Teach

Herz provides no motivation to generate and send a notification that a feedback message exists, as defined by claim 1 or even a feedback message as described by Boulton. Therefore, Herz provides no teaching and no motivation to modify Boulton to arrive at the subject matter defined by claim 1.

Herz provides no teaching suggesting generating a notification that a customer's feedback message exists and transmitting that notification to someone other than the customer, such as an employee of a store. In this regard, note that the abstract of Herz states that offers "are communicated either to the vendor or to an on-line computer shopping system that directly makes such offers to shoppers." Those offers are not a notification that a feedback message exists.

6. Conclusions Applicable to Claim 1 (And Also to All other Independent Claims, Claims 15, 17, 20, 22, 28, and 33)

The relevant facts are (1) that Boulton is directed to providing an improved method for providing feedback on using software, (2) that Herz is directed to marketing to an individual, and (3) that neither reference provides a teaching suggesting providing real time feedback from a customer to an employee (feedback from an input address to a different address of a networked system). Therefore, the combined teachings of both references do not suggest the limitations defined by the last clause of claim 1:

automatically creating and transmitting an electronic notification message to a first employee of an employer, said electronic notification message providing an indication that a feedback message exists, said automatically creating and transmitting occurring in response to at least one of said receiving and said automatically storing.

Moreover, Boulton is directed to problems of facilitating generation and usability of user

feedback on software. In contrast, Herz is directed to improving the effectiveness of targeted marketing to customers. There is no logical combination of those two concepts and therefore no reason suggesting incorporation of features of Herz into the system or method disclosed by Boulton. For this additional reason, the combined teachings of both references fail to suggest the limitations defined by claim 1 including specifically the automatic transmission to an employee of a notification of a customer's feedback message defined by claim 1's recitation:

automatically creating and transmitting an electronic notification message to a first employee of an employer, said electronic notification message providing an indication that a feedback message exists, said automatically creating and transmitting occurring in response to at least one of said receiving and said automatically storing.

For those reasons, the rejection of claim 1 is improper and should be reversed. Independent claim 15, 17, 20, 22, 28, and 33 all contain the limitations discussed above. Therefore, for at least the reasons just noted for claim 1, claim 15, 17, 20, 22, 28, and 33 are also non-obvious over the combined teachings of Boulton and Herz.

7. Response to the examiner's assertions regarding claim 1's "receiving from a customer a customer feedback message in an electronic format"

In the office action mailed April 27, 2005 at page 3 lines 4-10, the examiner asserts that Boulton at column 9 lines 43-48 discloses an electronic network implemented method for notifying personnel of customer feedback messages.

In reply, note that this passage in Boulton is part of the description of the embodiment spanning column 7 line 35 through column 9 line 48. Column 7 line 35 et seq. describe a *user* using a first software package, having the user use the Boulton software package to generate and send feedback information on usability of the first software package. Boulton software also automatically identifies the user's "location" or context in the first software package of which the user transmits the feedback message. See for example Boulton's column 9 lines 43-48 states that:

The feedback information input by the user in feedback interface 42 is preferably sent to a feedback storage block 44. In the described embodiment, block 44 includes a database, accessible through a network, which stores the feedback information sent by the user of feedback interface 42.

In contrast to Boulton's software user, claim 1 recites a "customer." Note that "customer," in the context of customer purchasing a good or a service and providing a feedback on the purchased good or service, is what is disclosed in the examined application. Thus, this application's disclosure is conceptually different from Boulton's student or employee providing feedback on usability of software. That conceptual difference relates to the limitations defined by claim 1 distinguishing notification of a customer's feedback transmitted to the employee from any data transmitted back to the customer in regards to Herz, as explained below.

8. **Response to the examiner's assertions that Boulton teaches "automatically storing said feedback message in a database" and lack of automated transmission to anyone**

In office action mailed April 27, 2005 at page 3 lines 11-18, the examiner asserts that Boulton at column 9 lines 21-22 and lines 43-48 discloses automatically storing customer feedback data.

In reply, note that Boulton column 9 lines 21-22 states that Boulton's system "automatically sends the entered feedback to the other *components* of the system" and Boulton lines 43-48 clarify that the system components mean storage media and database data structures. See for example how Boulton at column 9 lines 43-48 refers to storage of user feedback, stating that:

The feedback information input by the user in feedback interface 42 is preferably sent to a *feedback storage block 44*. In the described embodiment, *block 44 includes a database*, accessible through a network, which stores the feedback information sent by the user of feedback interface 42. Alternatively, feedback data can be stored on *storage devices local to a feedback recipient*, such

as on a hard disk drive of computer system 10, and for example, mailed throughout a network *when so requested*. [Emphasis supplied.]

This passage discloses storing the user's feedback. This passage does not disclose automatically sending the feedback or notification thereof to any one. Note specifically that the reference in this passage to mailing (" mailed throughout a network") requires a specific request ("*when so requested*"). Therefore, this passage does not suggest automated transmission of notification of existence of a feedback message.

Moreover, a review of the paragraph in Boulton at column 5 lines 5-34 clarifies by negative implication that Boulton provides no teaching suggesting that any feedback is automatically forwarded upon submission of feedback by a user. Note the lack of connection in Boulton column 5 lines 5-34 between the time of input by user and time of review by the reviewer. This lack of connection indicates that Boulton's review time is unrelated to the user input time. That is, this section teaches that the reviewer chooses when to review stored feedback records.

Moreover, real time review does not makes sense in the context of Boulton's disclosed problem of providing a convenient and effective way to capture feedback for purpose of analysis, such as correcting subsequent teaching and business rules. Real time notification would be inconvenient and the problems addressed in Boulton do not require feedback to be sent immediately to a reviewer. Boulton for example expressly teaches a reviewer reviewing a set of feedback records, manipulating those records to obtain statistically significant information, as specified in Boulton's abstract. Therefore, such automatic notifications would have only served to distract Boulton's reviewer from whatever else they were working on.

Thus, nothing in Boulton suggests providing an automated notification that a feedback message exists and such a notification would be in the context of problems addressed by Boulton counter productive.

- 9 **Response to the examiner's admission that Boulton fails to disclose automatically creating and transmitting an electronic notification message to a first employee of an employer, said electronic notification**

message proving an indication that a feedback message exists

In the office action mailed April 27, 2005 at page 4 line 4, the examiner admits that Boulton does not disclose "automatically creating and transmitting an electronic notification message to a first employee of an employer, said electronic notification message providing an indication that a feedback message exists." We agree.

That is the examiner admits that Boulton does not disclose the limitation defined by the following paragraph of claim 1:

automatically creating and transmitting an electronic notification message to a first employee of an employer, said electronic notification message providing an indication that a feedback message exists, said automatically creating and transmitting occurring in response to at least one of said receiving and said automatically storing.

10. The Examiner's Assertions Regarding Herz

The examiner alleges that claim 1 is obvious in view of Boulton and Herz, because Herz (1) discloses the foregoing limitations and (2) Herz provides a motivation to modify Boulton to include those limitations. Office action Mail April 27, 2005 page 4 lines 9-23. Specifically, the examiner asserts that (1) Herz's claim 5; (2) Herz's page 14 paragraph 0168 lines 3-4; and (3) Herz's page 8 paragraph 96 lines 1-4; and (4) Herz's paragraph 99 line 12 discloses the foregoing limitations of claim 1. It is not clear from the office action with which of the passages in Herz cited by the examiner the examiner corresponds to each of the limitations in the claim 1's "automatically creating ..." paragraph so we address those assertions individually in detail below.

**11. Response to the Examiner's Assertions That Herz Discloses
Automatically Creating and Transmitting an Electronic Notification
Message to A First Employee of an Employer - (1) Herz's claim 5; and
(2) Herz's page 14 paragraph 0168 lines 3-4**

The examiner relies upon Herz claim 5 and Herz paragraph 0168 for the assertion that Herz discloses automatically creating and transmitting an electronic notification message to a

first employee of an employer, an electronic notification message proving an indication that a feedback message exists. Office action Mail April 27, 2005 on page 4.

Herz claim 5 depends upon claim 4 and claim 1. These three claims read as follows:

1. A system for presentation of user offers in the form of customized promotions to consumers who access said system via one of a plurality of user terminals that are served by said system, comprising:

means for automatically generating user profiles for said consumers, each of said user profiles being generated from an identification of said consumer and a record of past purchases made by said consumer; and

means for automatically generating at least one use offer for an identified consumer at a one of said plurality of user terminals, each of said at least one offer being generated from data contained in a one of said user profiles generated for said customer.

4. The system of claim 1 wherein said means for automatically generating at least one user offer comprises: means for correlating a user profile, generated for an identified customer, with products offered for sale by a vendor served by said system to identify ones of said products that are likely to be of interest to said identified user.

5. The system of claim 4 wherein said means for automatically generating at least one user offer further comprises: means for generating, in response to receipt of said data from said one user terminal indicative of a purchase of a product by said customer, a user offer for a product, determined as a function of said purchase of a product by said customer; and means for transmitting said user offer to said user terminal for display thereon to said identified customer.

Herz's claim 5's wherein clause refers to a computer system product purchase information transmitted from a user via a terminal, creating an offer for a product based upon that information, and transmitting the offer to the same user via the same terminal. *That is, Herz's*

claim 5 discloses both receiving from and transmitting to the same address, the address of the user or terminal used by the user.

In contrast, claim 1 in this application defines two entities, a “customer” and an “employee”, and it defines receiving from one address (the customer’s address) and transmitting to another address (the employee’s address).

Herz’s paragraph 0168 pertains to element 503 shown in Fig. 4. Herz’s Brief Description of Fig 4 reads as follows:

[0015] FIG. 4 illustrates in flow diagram form the operation of the present system for the automatic determination of customized prices and promotions to automatically determine a shopper’s interest through the use of similarity measurements:

Herz’s paragraph 0168 reads as follows.

[0168] At step 503, the sum of the identified weighted selected attributes is computed to determine the intrinsic quality measure $q(U, X)$. At step 504, the summarized weighted relevance feedback data is retrieved, wherein some relevance feedback points are weighted more heavily than others and the stored relevance data can be summarized to some degree, for example by the use of search profile sets as described below. The more difficult part of determining shopper U ’s interest in offer X $r(U, X)$ is to find or compute at step 505 the value of $f(U, X)$, which denotes the topical interest that shoppers like U generally have in offers like X . The method of determining a shopper’s interest relies on the following heuristic: when X and Y are similar offers (have similar attributes), and U and V are similar shoppers (Have similar attributes), then topical interest ($f(U, X)$) is predicted to have a similar value to the value of topical interest ($f(V, Y)$). This heuristic leads to an effective method because estimated values of the topical interest function ($f^*, *$) are actually known for certain arguments to that function:

specifically, if shopper V has provided a feedback rating of $\text{about.r}(V, Y)$ for offer Y, then insofar as that rating represents shopper V's true interest in offer Y, we have $\text{about.r}(V, Y) = Q * q(V, Y) + (1 - Q) * f(V, Y)$ and can estimate $f(V, Y)$ as $(\text{about.f}(V, Y) - Q * q(V, Y)) / (1 - Q)$, at points (V, Y) where feedback $\text{about.r}(V, Y)$ is known.

Thus, paragraph 0168 relates to particular weighting applied to purchase data associated with a customer to determine what incentive to provide to that customer. *There is no relevance of that passage to the examiner's assertion that Herz discloses automatically creating and transmitting an electronic notification message to a first employee of an employer, providing an indication that a feedback message exists.*

12. **Response to the Examiner's Assertions that Herz Provides Motivation to Modify Boulton - (3) Herz's page 8 paragraph 96 lines 1-4; and (4) Herz's paragraph 99 line 12**

The examiner further asserts that paragraphs 96 and 99 of Herz support his conclusion that the term "user" as used in Herz encompasses the "employee". Office action Mail April 27, 2005 on page 4 line 19-23.

Paragraphs 0096 and 0099 are in fact part of the same sentence, which begins in paragraph 0096. Herz discloses in each one of this and adjacent sentences, examples of categories (what Herz's defines as "domain examples") in which marketing offers may be generated, and the corresponding data fields for each such category. Herz defines "domains examples" in paragraph 0053, which reads as follows:

Profiles and Attributes

[0053] This section describes the data format of profiles, and gives a general procedure for automatically measuring the similarity between two shopper profiles or two offer profiles. Knowing which profiles are similar allows the shopping system to generalize when predicting shopper's preferences. Moreover, the ability to group shoppers or offers by similarity is useful when forming

buyers' clubs or determining an appropriate layout for an "electronic mall." The generality of this problem motivates a general approach. It is assumed that many shoppers and offers are known to the shopping system, and that the system stores (or has the ability to reconstruct) several pieces of information about each shopper and each offer. These pieces of information are termed "attributes": collectively, they are said to form a profile of the shopper or the offer. Profiles should be configured to specify attributes that are appropriate for the particular shopping domain in which the invention is used.

The category specified in paragraphs 0096-0099 relates to marketing stock, and the beginning portion of that sentence including paragraphs 0096-0099 reads as follows.

[0096] ... As another domain example, if the offers are offers to buy or sell stock in publicly traded corporations, profiles might include attributes such as, but not limited to, the following:

[0097] a.) Type of business (textual),

[0098] b.) Corporate mission statement (textual),

[0099] c.) Number of employees during each of the last 10 years (ten separate number attributes),

....

Recall that the examiner asserted that the foregoing passage in Herz equated "employee" with "user".

Clearly, Herz paragraphs 0096-0099 in fact **do not** teach that the term "user" encompassed the term "employee." Instead Herz at paragraphs 0096-0099 teaches that one factor used in making determinations as to what incentives to offer when soliciting stock purchases is the number of employees in the offered target company.

The examiner's follow on assertion is that Herz teaches that employees of a company for which stock is being offered (as just explained regarding Herz paragraphs 0096-0099) may use a

marketing system is not relevant. That assertion is irrelevant.

The relevant facts are that (1) Herz is directed to marketing to an individual, (2) Boulton is directed to providing an improved method for providing and analyzing software usability feedback, and (3) neither reference provides a teaching suggesting providing automated notification to an employee that a customer feedback message exists. Therefore, the combined teachings of both references do not suggest the limitations defined by the last clause of claim 1:

automatically creating and transmitting an electronic notification message to a first employee of an employer, said electronic notification message providing an indication that feedback message exists, and automatically creating and transmitting occurring in response to at least one of said receiving and said automatically storing.

For at least the same reasons, the rejections of all claims should be reversed.

13. Claims 3 and 24 - including a customer satisfaction rating

The examiner asserts that Herz page 15 [sic] lines 31-35 disclose "shopper V providing satisfaction ratings."

In reply, Herz's sub section "Determining Shoppers' Interest Through Similarity " at paragraphs 0165-0173 pages 14 and 15 discloses shopper ratings. However, Herz discloses using those ratings in its algorithm to determine what incentives to generate for subsequent offering to that consumer.

The examiner's conclusion (office action page 6 lines 7-11) that it would have been obvious to include that feature in Boulton's system makes no sense. The examiner states that would be an obvious modification because it would "enabl[e]... the user to become aware about shoppers' or customers' behavior toward the goods and services provided and thus maximiz[e]... business relationships and profits." Boulton is directed to feedback on software usability. Herz is directed to determining targeted incentive offers. There is no logical relation to Boulton's system and user's of Boulton's system for customer satisfaction ratings of product offers not existing in Boulton's system.

14. Claims 4 and 25 - Electronic notifications that a feedback message exists which includes customer satisfaction

Claims 4 and 25 define that the notification of a feedback message includes a customer satisfaction rating.

The examiner alleges that Herz teaches a notification including a customer satisfaction rating.

In reply, the examiner is not correct. The examiner has equated for claim 1 Herz's user with claim 1's "employee". Now, the examiner is making a vague assertion that Herz's user's transmission of a rating is both a notification to an employee that feedback exists and a customer satisfaction rating. The examiner's correspondence lacks the necessary claimed "customer" and "employee" transmission locations. Therefore, the rejections of claims 4 and 25 are improper and should be reversed.

15. Claim 7 - automatically creating and transmitting an electronic notification message comprising an audio file providing an indication that a feedback message exists

Claim 7 defines that the "customer feedback message in said electronic format comprises an audio file including a spoken message provided by said customer." The examiner rejects claim 7, alleging that a feedback message Boulton impliedly discloses storing an audio file defining the user's feedback message. Office action page 7 lines 9-13. The basis for the examiner's assertion is that Boulton column 10 lines 1-6 discloses voice activated commands. However, the existence of voice activated commands does not disclose or imply that an audio file of the customer's spoken feedback message exists. In fact, since audio files take up more storage space than data indicating content of a feedback, such as boolean or ASCII text data formats, there is no reason why one skilled in the art would consider storing Boulton type software feedback as an audio file capturing the user's words. Therefore, the rejection of claim 7 is improper and should be reversed.

16. Claim 8 - Creating an electronic notification message and transmitting said electronic notification message of an audio file with feedback

message

Claim 8 recites:

“An electronic network implemented method for notifying personnel of customer feedback messages, comprising;

receiving a spoken customer feedback message from a customer,

creating an audio file containing a recording of said spoken customer feedback message;

storing said audio file in a database;

generating an electronic notification message, said electronic notification message indicating that a certain feedback message has been received;

transmitting said electronic notification message to an employee of an employer;

and

accessing said database and playing said audio file containing a recording of said spoken feedback message stored in said database to said employee, upon receiving a command from said employee.”

The rejection of claim 8 is improper and should be reversed for the same reasons applicable to claims 1 and 7.

Claim 8 also defines the employee accessing and playing the audio file containing the customer feedback message. Neither applied reference discloses or suggests that additional feature.

17. Claim 10 - creating and transmitting an electronic notification message indicating that a certain feedback message has been received

The examiner rejects claim 10, alleging that Boulton teaches assigning a response ID to said customer feedback message, saying that Boulton cited “category or subcategory assigned an ID.”. (Office action mailed April 27, 2005, Page 9.) Boulton does not suggest or teach creating and transmitting an electronic notification message indicating that a certain feedback message has been received. The purpose of the ID cited in Boulton feedback was to help identify problem in software. It is not ID for the purposes of identify a customer message.

18. **Claim 11 - Transmitting an electronic notification message indicating the existence of a certain feedback message with response ID**

The examiner rejects claim 11, alleging that Boulton teaches sharing content field comprising names or ID numbers of individuals. (Office action mailed April 27, 2005 Page 9.) Boulton does not suggest or teach creating and transmitting an electronic notification message indicating the existence of a certain feedback message with response ID.

19. **Claim 17 - creating and transmitting said electronic notification with feedback message response**

Claim 17 is non-obvious for the same reasons as claim 1.

Claim 20 defines that the notification message includes the customer's audio feedback file and that the customer feedback notification message is "promptly transmitted" to the employee.

20. **Claim 20 - storing an audio feedback message, notification including and audio file, and prompt transmission to the employee**

Independent claim 20 defines storing the spoken customer feedback message, that the notification message includes the customer's audio feedback file and that the customer feedback notification message is "promptly transmitted" to the employee. The applied references fail to disclose these features.

The examiner relies upon his assertions, rebutted above, regarding storing an audio file and including an audio file in a notification. Office action page 10 lines 12-22.

The examiner relies upon assertions, rebutted above, regarding automatically promptly transmitting a notification message to an employee. However, the examiner's prior arguments did not address the limitation of automatically "*promptly*" sending the notification, as defined by claim 20. Boulton and Herz fail to disclose automatic prompt notification that a feedback message exists.

21. **Claim 22 - promptly transmitting, and displaying the feedback message in a web browser**

The examiner rejected claim 22, for substantially the same reasons he rejected claims 1 and 8. Office action mailed April 27, 2005 page 11 lines 3-19.

However, the examiner here alleges that the "promptly transmitting" ... "since transmission is from computers to computers, it is dynamically or promptly done."

In reply, the applicant points out that neither reference discloses promptly transmitting messages in response to receipt of data from a user (Boulton) or customer (Herz). Therefore, the examiner's assertion is incorrect.

However, the examiner here also alleges that Herz teaches a web based system.

In reply, the applicant points out that Herz does not provide a web based system that enables anyone other than the customer to which its incentives are directed to display anything. In contrast, claim 22 defines that it is the employee that can display ("displaying to said employee said customer feedback message within a web page...").

For these two additional reasons, the rejection of claim 22 is improper and should be reversed..

22. Claim 27 - "providing a link on said web page enabling said employee to playback said audio file"

Claim 27 defines inter alia "providing a link on said web page enabling said employee to playback said audio file".

The examiner refers to arguments rebutted above with respect to this limitation. Office action page 12 last 2 lines. However, the examiner's prior arguments did not address providing a link to an audio file containing a feedback message. Moreover, Boulton and Herz contain no such concept. For this additional reason, the rejection of claim 27 is improper and should be reversed.

23. Claim 28 "A system for receiving and tracking customer complaints... a complaint record... to retrieve said complaint record"

Claim 28 defines "A system for receiving and tracking customer complaints" and limitations defining the receipt, storage, and notification of the existence of, and retrieval of customer complaints.

The examiner relies upon prior assertions, refuted above, regarding the other recitations

in claim 28 common to prior claims. The examiner does not address the fact that claim 28 is limited to a system defining handling of customer complaints. For this additional reason, the rejection of claim 28 is improper and should be reversed.

24. Claim 30 - Audio file again

Claim 30 depends from claim 28 and defined the complain record includes the audio file of the customer's complaint. The examiner relies upon his prior assertions, rebutted above, regarding including an audio file. Office action page 13 lines 18-23.

Moreover, the examiner's prior arguments never addressed an audio file containing a customer complaint. For this additional reason, the rejection of claim 30 is improper and should be reversed.

H. 37 CFR 41.37 (c)(1)(viii) Claims Appendix

Appendix I is attached which contains a copy of the claims involved in the appeal.

I. 37 CFR 41.37 (c)(1)(ix) Evidence Appendix

No evidence was submitted pursuant to 1.130, 1.131, or 1.132 of this title or any other evidence entered by the examiner and relied upon by appellant in the appeal. Accordingly, this section is inapplicable.

J. 37 CFR 41.37 (c)(1)(x) Related proceedings appendix

There are no related appeals or interferences under (c)(1)(ii) of this section. Accordingly, this section is inapplicable.

IV. 37 CFR 41.37 (c)(2)

This brief does not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence.

V. 37 CFR 41.37 (d)

This appeal brief complies with all the requirements of paragraph (c) of this section.

VI. 37 CFR 41.37 (e)

No extension of time is required.

7/27/05
DATE

Respectfully Submitted,



Richard A. Neifeld

Registration No. 35,299

Attorney of Record

DHS/RAN/BTM/DHS/RAN/DHS

Printed: July 27, 2005 (1:33pm)

Y:\Clients\Catalina\PIP-81-TRAU\PIP-81-TRAUU-US\Drafts\AppealBrief_PIP-81-TRAUU-US
_050705.wpd

Appendix I

1. An electronic network implemented method for notifying personnel of customer feedback messages, comprising:

receiving from a customer a customer feedback message in an electronic format;

automatically storing said feedback message from said customer in a database in response to receipt of said customer feedback message in said electronic format;

and

automatically creating and transmitting an electronic notification message to a first employee of an employer, said electronic notification message providing an indication that a feedback message exists, said automatically creating and transmitting occurring in response to at least one of said receiving and said automatically storing.

2. The method of claim 1 wherein said transmitting comprises transmitting said electronic notification message via e-mail.

3. The method of claim 1 wherein said receiving includes receiving a customer satisfaction rating.

4. The method of claim 3 wherein said electronic notification message includes said customer satisfaction rating.

5. The method of claim 3 further comprising:
determining whether said customer satisfaction rating is below a threshold value; and
transmitting a second electronic notification message to a second employee of said employer if said customer satisfaction rating is below said threshold value, said second electronic notification message providing an indication that a feedback message exists.

6. The method of claim 3 further comprising:
determining whether said customer satisfaction rating is above a threshold value; and
transmitting a second electronic notification message to a second employee if said customer satisfaction rating is above said threshold value, said second electronic notification message providing an indication that a feedback message exists.

7. The method of claim 1

wherein said customer feedback message in said electronic format comprises an audio

file including a spoken message provided by said customer.

8. An electronic network implemented method for notifying personnel of customer feedback messages, comprising:

receiving a spoken customer feedback message from a customer;
creating an audio file containing a recording of said spoken customer feedback message;
storing said audio file in a database;
generating an electronic notification message, said electronic notification message indicating that a certain feedback message has been received;
transmitting said electronic notification message to an employee of an employer; and
accessing said database and playing said audio file containing a recording of said spoken feedback message stored in said database to said employee, upon receiving a command from said employee.

9. The method of claim 8 wherein said transmitting comprises transmitting said electronic notification message via e-mail.

10. The method of claim 8 further comprising assigning a response ID to said customer feedback message.

11. The method of claim 10 wherein said command from said employee comprises said response ID.

12. The method of claim 8 further comprising:
receiving a satisfaction rating from said customer;
determining whether said satisfaction rating is below a threshold value; and
transmitting a second electronic notification message to a second employee of said employer if said satisfaction rating is below said threshold value, said electronic notification message indicating that a certain feedback message has been received.

13. The method of claim 8 further comprising:
receiving a satisfaction rating from said customer;
determining whether said satisfaction rating is above a threshold value; and
transmitting a second electronic notification message to a second employee of said employer if said satisfaction rating is above said threshold value, said electronic notification

message indicating that a certain feedback message has been received.

14. The method of claim 12 wherein said transmitting comprises transmitting said second electronic notification message via e-mail.

15. An electronic network implemented method for notifying personnel of customer messages, comprising:

- receiving a satisfaction rating from a customer;

- receiving a spoken message from said customer;

- creating an audio file containing a recording of said spoken message;

- storing said audio file in a database;

- generating an electronic notification message, said electronic notification message indicating at least the existence of a satisfaction rating of a customer, said generating occurring automatically at least in part in response the receipt and storage of at least one of said satisfaction rating and said spoken message;

- attaching said audio file to said notification message;

- automatically transmitting said electronic notification message to an employee of an employer, said automatically transmitting occurring at least in part in response to said generating;
- determining whether said satisfaction rating is below a threshold value;

and

- transmitting a second electronic notification message to a second employee of said employer if said satisfaction rating is below said threshold value, said second electronic notification message indicating at least the existence of a satisfaction rating of a customer.

16. The method of claim 15 wherein said automatically transmitting comprises transmitting via email second electronic notification message is an e-mail message.

17. A customer feedback notification electronic system, comprising:

- a database for storing a customer feedback message of a customer;

- an electronic notification message, said electronic notification message indicating that a customer feedback message has been received; and

- a computer server for promptly transmitting said electronic notification message to an employee of an employer upon receipt of said customer feedback message.

18. The system of claim 17 further comprising an email server for transmitting said electronic notification message via e-mail.

19. The system of claim 17 further comprising:
a voice server for receiving spoken messages from customers and converting said spoken messages to audio files; and
programmed instructions for attaching
said audio file to said notification message before transmitting said notification message to said employee.

20. A customer feedback notification electronic system, comprising:
a voice server for receiving a spoken customer feedback message;
a database for storing said feedback message in an audio file;
an electronic notification message indicating that said feedback message has been received, said electronic notification message including said audio file; and
a computer server for promptly transmitting said notification message to an employee in response to receipt of said customer feedback message.

21. The system of claim 20 wherein said computer server transmits said notification message via email.

22. An electronic network implemented method for receiving and tracking customer feedback messages, comprising:

receiving a customer feedback message of a customer;
storing said customer feedback message in a database;
creating an electronic notification message indicating that a customer feedback message has been received from an individual customer;
promptly transmitting said notification message to an employee of an employer upon receipt of said customer feedback message;
accessing said database using a web server to retrieve said customer feedback message to a web browser; and
displaying to said employee said customer feedback message within a web page displayed by said web browser.

23. The method of claim 22 wherein said transmitting said notification message comprises transmitting an email.

24. The method of claim 22 wherein said step of receiving said feedback message includes receiving a customer satisfaction rating from said customer.

25. The method of claim 24 wherein information in said notification message includes said customer satisfaction rating.

26. The method of claim 24 comprising the further steps of:
determining whether said customer satisfaction rating is below a threshold value; and
transmitting a second electronic notification message to a second employee if said customer satisfaction rating is below said threshold value.

27. The method of claim 22 comprising the further steps of:
creating an audio file containing said customer feedback message;
storing said audio file in said database; and
providing a link on said web page enabling said employee to playback said audio file.

28. A system for receiving and tracking customer complaints, comprising:
a voice server for receiving a customer complaint;
a database for storing said complaint in a complaint record;
a message server for serving an electronic notification message indicating that a complaint has been received, said message server configured to automatically serve said electronic notification message to an employee of an employer promptly upon receipt of said customer complaint;

a web server connected with said database, said web server configured to enable said employee to access said database to retrieve said complaint record.

29. The system of claim 28 wherein said message server is configured to transmit electronic notification messages via email.

30. The system of claim 28 further comprising:
an audio file containing a recording of a spoken customer complaint;
wherein said complaint record includes said audio file.

31. The system of claim 30 further comprising a mechanism to attach said audio file

to said electronic notification message.

32. The method of claim 7 wherein said electronic notification message includes said audio file.

33. A computer program product comprising a computer readable media storing code for enabling an electronic network to implement a method for notifying personnel of customer feedback messages, said method comprising:

receiving from a customer a customer feedback message in an electronic format;

automatically storing said feedback message from said customer in a database in response to receipt of said customer feedback message in said electronic format; and

automatically creating and transmitting an electronic notification message to a first employee of an employer, said electronic notification message providing an indication that a feedback message exists, said automatically creating and transmitting occurring in response to at least one of said receiving and said automatically storing.

Date/time: July 27, 2005 (1:33pm)

Y:\Clients\Catalina\PIP-81-TRAU\PIP-81-TRAUU-US\Drafts\AppealBrief_PIP-81-TRAUU-US
_050705.wpd